

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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UNITED STATES OF AMERICA, :

-v- : **(S-5)11 Cr.1032 (PAE)**

EDWIN CIRIACO, et. al., : **DECLARATION OF
ATTORNEY IN SUPPORT
OF MOTION**

Defendants. :

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**DECLARATION OF MITCHELL DINNERSTEIN
IN SUPPORT OF MOTION**

MITCHELL DINNERSTEIN, hereby affirms under penalty of perjury:

1. I am a member of the bar of the State of New York and of this Court and I am the attorney of record for the defendant herein.
2. I am fully familiar with the facts and circumstances of this case.
3. I submit this declaration and attached memorandum of law in support of the Notice of Motion herein.
4. A Superseding I indictment was filed against Edwin Ciriaco, along with others, on or about February , 2013 charging him, *inter alia*, with Racketeering charges pursuant to 18 USC § 1962(c) and violation of Narcotics Laws pursuant to 18 U.S.C. §§ 846, 841(a) and 841(b)(1)(B) and Firearms violations pursuant to 18 U.S.C. § 924(c).
5. Upon the review of the discovery material, the search warrant issued in this case was insufficient to justify the search of the apartment at 1501 Undercliff Avenue, Apartment 4N, Bronx, New York because the granting of the search warrant was based upon false and misleading information. The search was not based upon probable cause. Therefore, the items

seized in that search should be suppressed. The reasons elaborated in the attached Memorandum of Law.

6. Also for the reasons elaborated in the attached Memorandum of Law, the search of the apartment was overly broad. Items were seized that were not as required by the warrant “instrumentalities, evidence and fruits of the crime” as required by the warrant.

7. Also, for the reasons elaborated in the Memorandum of Law, the defense seeks a Bill of Particulars pursuant to Fed. R. of Crim. Proc. 7(f).

8. Pursuant to 28 U.S.C. § 1746, I affirm under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated: New York, New York
March 8, 2013

/s/

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